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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAN 18 2022

SEAN F. McAVOY, CLERK
DEPUTY
RICHLAND, WASHINGTON

9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA) NO: 1:21-CR-02003-SMJ
12)
13 vs.)
14)
15) Plea Agreement
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28)

16 The United States of America, by and through Vanessa R. Waldref,
17 United States Attorney for the Eastern District of Washington, and Matthew A.
18 Stone, Assistant United States Attorney for the Eastern District of Washington,
19 and Defendant, LAVANDER YAHTIN, and Defendant's counsel, Ulvar W.
20 Klein, agree to the following Plea Agreement:
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22

23 **1. Guilty Plea:**

24 Defendant, LAVANDER YAHTIN, agrees to plead guilty to Count Three of
25 the Indictment in this case, charging Defendant with Discharging a Firearm During
26 and in Relation to a Crime of Violence, in violation of
27
28 18 U.S.C. § 924(c)(1)(A)(iii).

PLEA AGREEMENT
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1
2 **2. Maximum Statutory Penalties:**

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4 Defendant, LAVANDER YAHTIN, understands that this is a Class A felony
5 charge, which carries a maximum penalty of: at least ten (10) years and up to life
6 imprisonment; a fine not to exceed \$250,000; up to (5) years of supervised release;
7 and a \$100 special penalty assessment.
8

9 Defendant understands that a violation of a condition of supervised release
10 carries an additional penalty of re-imprisonment for all or part of the term of
11 supervised release without credit for time previously served on post-release
12 supervision.
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15 **3. The Court is Not a Party to the Agreement:**

16 The Court is not a party to this Plea Agreement and may accept or reject this
17 Plea Agreement. Sentencing is a matter that is solely within the discretion of the
18 Court. Defendant understands that the Court is under no obligation to accept any
19 recommendations made by the United States and/or by Defendant; that the Court
20 may obtain an independent report and sentencing recommendation from the U.S.
21 Probation Office; and that the Court may, in its discretion, impose any sentence it
22 deems appropriate up to the statutory maximums stated in this Plea Agreement.
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24

25 Defendant acknowledges that no promises of any type have been made to
26 Defendant with respect to the sentence the Court will impose in this matter.
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1 Defendant understands that the Court is required to consider the applicable
2 sentencing guideline range, but may depart upward or downward under the
3 appropriate circumstances.
4

5 Defendant understands that should the sentencing judge decide not to accept
6 any of the parties' recommendations, that decision is not a basis for withdrawing
7 from this Plea Agreement or a basis for withdrawing this plea of guilty.
8

9 **4. Waiver of Constitutional Rights:**

10 Defendant, LAVANDER YAHTIN, understands that by entering this plea of
11 guilty Defendant is knowingly and voluntarily waiving certain constitutional
12 rights, including:
13

- 14
- 15 (a). The right to a jury trial;
 - 16 (b). The right to see, hear and question the witnesses;
 - 17 (c). The right to remain silent at trial;
 - 18 (d). The right to testify at trial; and
 - 19 (e). The right to compel witnesses to testify.
- 20
21

22 While Defendant is waiving certain constitutional rights, Defendant
23 understands that he/she retains the right to be assisted through the sentencing, and
24 any direct appeal of the conviction and sentence, by an attorney who will be
25 appointed at no cost if Defendant cannot afford to hire an attorney.
26

27 **5. Effect on Immigration Status:**
28

1 Defendant, LAVANDER YAHTIN, recognizes that pleading guilty may
2 have consequences with respect to his/her immigration status if he/she is not a
3 citizen of the United States. Under federal law, a broad range of crimes are
4 removable offenses, including the offense to which Defendant is pleading guilty.
5 Removal and other immigration consequences are the subject of a separate
6 proceeding, however, and Defendant understands that no one, including his/her
7 attorney or the District Court, can predict to a certainty the effect of his/her
8 conviction on his/her immigration status. Defendant nevertheless affirms that
9 he/she wants to plead guilty regardless of any immigration consequences that
10 his/her plea may entail, even if the consequence is his/her automatic removal from
11 the United States.
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16 **6. Elements of the Offense:**

17 The United States and Defendant agree that in order to convict Defendant of
18 Discharging a Firearm During and in Relation to a Crime of Violence, in violation
19 of 18 U.S.C. § 924(c)(1)(A)(iii), the United States would have to prove beyond a
20 reasonable doubt the following elements:
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23 (a). First, the Defendant committed the crime of Robbery Affecting
24 Commerce;
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26 (b). Second, the Defendant knowingly discharged a SCCY CX-2 9mm
27 caliber pistol during and in relation to that crime.
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1 **7. Factual Basis and Statement of Facts:**

2 The United States and Defendant stipulate and agree that the following facts
3
4 are accurate; that the United States could prove these facts beyond a reasonable
5 doubt at trial; and that these facts constitute an adequate factual basis for
6 LAVANDER YAHTIN's guilty plea. This statement of facts does not preclude
7
8 either party from presenting and arguing, for sentencing purposes, additional facts
9 which are relevant to the guideline computation or sentencing, unless otherwise
10 prohibited in this agreement.
11

12 On or about October 29, 2020, Defendant entered the Wolf's Den Travel
13 Center in Wapato, Washington, armed with a SCCY CX-2 9mm caliber pistol and
14 pointed it at the cashiers working there. Defendant ordered the cashiers to provide
15 him money and with drinks. Defendant also took Copenhagen tobacco products
16 while holding the cashiers and gunpoint and threatening them. During this time a
17 customer entered the Wolf's Den and Defendant began to talk to him. One cashier,
18 S.B. hit Defendant with a tire pressure gauge and a struggle ensued. Defendant
19 discharged the SCCY CX-2 9mm caliber pistol twice before exiting the store with
20 the money and Copenhagen tobacco products. Defendant was eventually
21 apprehended by police after driving away from the Wolf's Den in a vehicle.
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1 **8. The United States Agrees:**

2 The United States Attorney's Office for the Eastern District of Washington
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4 agrees not to bring any additional charges against the Defendant based upon
5 information in its possession at the time of this Plea Agreement and arising out of
6 Defendant's conduct involving illegal activity charged in the Indictment in this
7 case, unless the Defendant breaches this Plea Agreement any time before or after
8 sentencing. The United States also agrees to dismiss the remaining counts of the
9 Indictment against Defendant, if any.
10
11

12 **9. United States Sentencing Guideline Calculations:**

13 Defendant understands and acknowledges that the Court will consult the
14 United States Sentencing Guidelines (hereinafter "U.S.S.G.") and take them into
15 account when sentencing. Defendant also understands, however, that pursuant to
16 *United States v. Booker*, 543 U.S. 220 (2005), the Sentencing Guideline range is
17 advisory and that the court is required to consider the factors set forth in 18 U.S.C.
18 § 3553(a) and to impose a reasonable sentence.
19
20
21

22 (a.) Acceptance of Responsibility:

23 If Defendant pleads guilty and demonstrates a recognition and an affirmative
24 acceptance of personal responsibility for the criminal conduct; provides complete
25 and accurate information during the sentencing process; does not commit any
26 obstructive conduct; and enters a plea of guilty as soon thereafter as it may be
27
28

1 placed on the court's docket, the United States will recommend that Defendant
2 receive a two (2) level reduction for acceptance of responsibility, and if
3 Defendant's adjusted offense level is sixteen (16), or greater, the United States will
4 move for a one (1)-level reduction for timeliness. See U.S.S.G. § 3E1.1(a) and (b).
5

6 The Defendant and the United States agree that the United States may at its
7 option and upon written notice to the Defendant, not recommend a three (3) level
8 downward reduction for acceptance of responsibility if, prior to the imposition of
9 sentence, the Defendant is charged or convicted of any criminal offense
10 whatsoever or if the Defendant tests positive for any controlled substance.
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13 (b.) Criminal History:

14 The United States and Defendant make no agreement regarding Defendant's
15 criminal history.
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18 **10. Incarceration:**

19 The United States and the Defendant agree to recommend that the Court
20 impose a sentence of ten (10) years imprisonment.
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22 **11. Fines:**

23 The United States and Defendant reserve the right to make whatever
24 recommendation they believe is appropriate concerning the imposition of a
25 criminal fine.
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12. Supervised Release:

The United States and Defendant agree to recommend that the Court impose a 5-year term of supervised release.

13. Mandatory Special Penalty Assessment:

Defendant agrees to pay the \$100 mandatory special penalty assessment to the Clerk of Court for the Eastern District of Washington, at or before sentencing, pursuant to 18 U.S.C. § 3013 and shall provide a receipt from the Clerk to the United States before sentencing as proof of this payment.

14. Restitution:

The United States and the Defendant hereby stipulate and agree that, pursuant to 18 U.S.C. § 3663, § 3663A, and § 3664, the Court should order restitution to the victims, and medical providers in an amount not to exceed \$10,000.00.

15. Payments While Incarcerated:

If Defendant lacks the financial resources to pay the monetary obligations imposed by the Court, Defendant agrees to earn the money to pay toward these obligations by participating in the Bureau of Prisons' Inmate Financial Responsibility Program.

1 **16. Appeal Rights:**

2 The Defendant understands that he has a limited right to appeal or challenge
3
4 the conviction and sentence imposed by the Court. The Defendant hereby
5 expressly waives his/her right to appeal his conviction and the sentence the Court
6 imposes, including any restitution order. The Defendant further expressly waives
7
8 his/her right to file any post-conviction motion attacking his conviction and
9 sentence, including a motion pursuant to 28 U.S.C. § 2255, except one based upon
10 ineffective assistance of counsel based on information not now known by
11
12 Defendant and which, in the exercise of due diligence, could not be known by
13
14 Defendant by the time the Court imposes the sentence.

15 Defendant acknowledges that this waiver shall result in the dismissal of any
16
17 appeal or collateral attack Defendant might file challenging the conviction or
18 sentence in this case, except for ineffective assistance of counsel as noted above.
19 If Defendant files a notice of appeal, a habeas petition, or other collateral attack,
20 notwithstanding this agreement, Defendant agrees that this case shall, upon motion
21
22 of the Government, be remanded to the District Court to determine whether
23
24 Defendant is in breach of this agreement and, if so, to permit the Government to
25
26 withdraw from the Plea Agreement.
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1 **17. Integration Clause:**

2 The United States and Defendant acknowledge that this document
3
4 constitutes the entire Plea Agreement between the United States and Defendant,
5 and no other promises, agreements, or conditions exist between the United States
6 and Defendant concerning the resolution of the case. This Plea Agreement is
7
8 binding only upon the United States Attorney's Office for the Eastern District of
9 Washington, and cannot bind other federal, state or local authorities. The United
10 States and Defendant agree that this agreement cannot be modified except in a
11 writing that is signed by the United States and Defendant.
12

13 **Approvals and Signatures**

14
15 Agreed and submitted on behalf of the United States Attorney's Office for
16 the Eastern District of Washington.

17
18 VANESSA R. WALDREF
19 United States Attorney


20 

1/13/2022


21 MATTHEW A. STONE
22 Assistant United States Attorney

Date

1 I have read this Plea Agreement and have carefully reviewed and discussed
2 every part of the agreement with my attorney. I understand and voluntarily enter
3 into this Plea Agreement. Furthermore, I have consulted with my attorney about
4 my rights, I understand those rights, and I am satisfied with the representation of
5 my attorney in this case. No other promises or inducements have been made to
6 me, other than those contained in this Plea Agreement, and no one has threatened
7 or forced me in any way to enter into this Plea Agreement. I am agreeing to plead
8 guilty because I am guilty.
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12
13  12/3/2021
14 LAVANDER YAHTIN Date
15 Defendant

16 I have read the Plea Agreement and have discussed the contents of the
17 agreement with my client. The Plea Agreement accurately and completely sets
18 forth the entirety of the agreement between the parties. I concur in my client's
19 decision to plead guilty as set forth in the Plea Agreement. There is no legal reason
20 why the Court should not accept Defendant's plea of guilty.
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22

23
24  12/3/2021
25 ULVAR W. KLEIN Date
26 Attorney for Defendant
27
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